

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AVOCENT REDMOND CORP.,  
Plaintiff,  
v.  
ROSE ELECTRONICS, *et al.*,  
Defendants.

Case No. C06-1711RSL

## ORDER REGARDING PLAINTIFF'S MOTION TO LIMIT THE NUMBER OF INVALIDITY CONTENTIONS

This matter comes before the Court on “Avocent Redmond Corp.’s Motion to Limit the Number of Prior Art References and Invalidity Contentions Relied Upon by the Defendants.” Dkt. # 389. Defendants have asserted thousands of prior art combinations that allegedly anticipate or make obvious the fifty-five claims plaintiff asserts in this litigation. Plaintiff does not argue that the invalidity contentions are improper under the Local Patent Rules of this district. Rather, plaintiff argues that the references are duplicative and that the Court should exercise its inherent power to require defendants to identify the handful of prior art references they intend to present to the jury.

Defendants have not asserted a property interest in the invalidity contentions. Nor do they explain why they should be permitted to present to the jury hundreds of different combinations of prior art to show that a single claim was obvious at the time of the invention. In fact, it would be impossible to do so given the time constraints in which the parties must present this case. Defendants' overly-inclusive lists of prior art and prior art combinations make it impossible to focus discovery efforts or prepare for trial: neither plaintiff nor the Court can

1 determine on which patents defendants actually intend to rely. Pursuant to Fed. R. Ev. 403 and  
2 its inherent powers, the Court will exclude from trial evidence that, while relevant, will confuse  
3 the issues, cause undue delay, waste time, and/or be cumulative.

4 As discussed in the context of defendants' motion to limit the number of claims  
5 asserted, various case management techniques are available to the Court in these circumstances.  
6 The Court would prefer, however, that the parties agree to a case management plan that will  
7 avoid jury confusion and ensure that all issues are resolved in the allotted time. Otherwise, the  
8 plan will be dictated by the Court as the trial date approaches. Defendants are expressly warned  
9 that the unreasonable and clearly duplicative number of prior art references they have asserted  
10 has impeded the orderly litigation of this matter. If this situation continues and the Court  
11 concludes that their over-disclosure has adversely affected this tribunal's search for truth,  
12 sanctions such as adverse inferences, striking of references, and/or cost-shifting will be imposed.  
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14 For all of the foregoing reasons, plaintiff's "Motion to Limit the Number of Prior  
15 Art References and Invalidity Contentions Relied Upon by the Defendants" (Dkt. # 389) is  
16 DENIED without prejudice to the issues being raised again by plaintiff or the Court.  
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19 Dated this 29th day of May, 2012.

20 Robert S. Lasnik

21 Robert S. Lasnik  
22 United States District Judge  
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